

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

CR 07-288 (JMR/FLN)

Plaintiff,

v.

**ORDER AND REPORT
AND RECOMMENDATION**

Gusmallo Perez Rodriguez, 02,

Defendant.

Leshia M. Lee-Dixon, Assistant United States Attorney, for the Government.
Robert J. Kolstad, for the Defendant.

The above-referenced matter came before the undersigned United States Magistrate Judge on October 3, 2007, on the Defendant's pretrial motions.

Based upon the files, records, and proceedings herein, it is **HEREBY RECOMMENDED** that Defendant's Motions To Suppress Evidence Secured in Violation of Fifth Amendment [#41] and To Suppress Electronic Surveillance Evidence [#42] be **DENIED as moot** based upon the Government's representation that no statements or electronic surveillance evidence exist.

Based upon the files, records, and proceedings herein, it is **HEREBY ORDERED** that Defendant's Motions are **GRANTED** in part and **DENIED** in part as follows:

1. Defendant's Motion for Discovery Pursuant to Rule 16 [#22] is **GRANTED** to the extent required by Rule 16 of the Federal Rules of Criminal Procedure. The Government shall make the required disclosures on or before October 29, 2007.
2. Defendant's Motion for Disclosure of Any Evidence "Helpful" to the Defense [#23] is **GRANTED** to the extent required by required by Brady v. Maryland, 373 U.S. 83 (1963) and its progeny. The Government shall make the required disclosures on or before October 29, 2007.

3. Defendant's Motion for Notice of Intent to Use Any Evidence Defendant is Entitled to Discover [#24] is **GRANTED** to the extent required by the Federal Rules of Criminal Procedure and the Federal Rules of Evidence. The Government shall make the required disclosures on or before October 29, 2007.
4. Defendant's Motion for Government Agents to Retain All Handwritten and Tape-recorded Notes [#25] is **GRANTED** only to the extent it seeks preservation.
5. Defendant's Motion for Early Disclosure of Jencks Act Material [#27] is **DENIED**, however the Government voluntarily agrees to make such evidence available three business days before trial.
6. Defendant's Motion for Disclosure of Sentencing Guideline Materials [#29] is **DENIED**.
7. Defendant's Motion for Production of Prior Witness Statements [#30] is **GRANTED** to the extent required by the Jencks Act.
8. Defendant's Motion for Leave to File Additional Motions [#31] is **DENIED**, except to the extent Defendant can show good cause for untimely filing.
9. Defendant's Motion for Disclosure of Any Orders, Applications and/or Supporting Affidavits for Electronic Surveillance [#32] is **GRANTED as moot**.
10. Defendant's Motion for Disclosure of Sound Recordings Relating to the Investigation [#33] is **GRANTED as moot**.
11. Defendant's Motion for Disclosure of Any Complaints, Arrest Warrants, and Search Warrants with Supporting Affidavits and Inventories [#34] is **GRANTED**. The Government shall make the required disclosures on or before October 29, 2007.
12. Defendant's Motion for Disclosure of Names, Addresses, Phone Numbers, and Prior Criminal Records of All Witnesses the Prosecution Intends to Call at Trial [#35] is **DENIED**.
13. Defendant's Motion for Disclosure of Intent to Offer Evidence Pursuant to Rule 404(b) [#37] is **GRANTED** to the extent required by Federal Rule of Evidence Rule 404. The Government shall make the required disclosures on or before October 29, 2007.
14. Defendant's Motion To Inspect *In Camera* Post Conspiracy Statements Made By Co-Defendants [#38] is **DENIED as moot**.

15. Defendant's Motion Disclosure of Intent to Offer Evidence Defendant Has Been Convicted of a Crime [#39] is **GRANTED** to the extent required by Rules 404 and 609 of the Federal Rules of Evidence. The Government shall make the required disclosures on or before October 29, 2007.
16. Defendant's Motion for Early Disclosure of Rule 1006 Evidence [#44] is **GRANTED** to the extent required by Rule 1006 of the Federal Rules of Evidence. The Government shall make the required disclosures on or before October 29, 2007.
17. Defendant's Motion for Production of Any Informants Whose Identity is Disclosed for the Purpose of Conducting Pretrial Interviews [#61] is **GRANTED**. The Government shall make the required disclosure and production on or before October 29, 2007.

DATED: October 4, 2007

s/ Franklin L. Noel
FRANKLIN L. NOEL
United States Magistrate Judge